

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

UNITED STATES OF AMERICA, CR 18-40100-KES

Plaintiff,

FACTUAL BASIS STATEMENT

vs.

LASERLITH CORPORATION,

Defendant.

The undersigned parties stipulate that the following facts are true and establish a factual basis for the plea in the action pursuant to Federal Rules of Criminal Procedure 11(b)(3):

On May 21, 1998, MicroAssembly Technologies, Incorporated ("MicroAssembly"), by and through its executive officer, Wallace Tang, registered as a domestic, for-profit corporation with the California Secretary of State. Effective April 1, 2015, the address for MicroAssembly was 3411 Regatta Boulevard, Richmond, California 94804. In 2014, MicroAssembly also claimed a Fargo, North Dakota, address in state filings in California.

On September 5, 2008, Defendant Laserlith Corporation ("Laserlith"), by and through its President Sine Chao, was registered as a foreign, for-profit corporation with the North Dakota Secretary of State. Defendant Laserlith was previously registered as a foreign corporation in California on August 24, 2007.

EXHIBIT

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Effective March 20, 2014, the address for Defendant Laserlith was 4200 James Ray Drive, Suite 501, Grand Forks, North Dakota 58202.

MicroAssembly was the parent corporate entity of Defendant Laserlith, and other corporate entities, including Blue Sky Engineering, Incorporated, ("Blue Sky") and Black Hills Nanosystems Corporation ("Black Hills Nano"). Sine Chao served as the Principle Corporate Officer of Defendant Laserlith; Gina Kim served as the Principal Corporate Officer of Black Hills Nano. All of these entities were related and conducted operations in the State and District of South Dakota, affecting interstate commerce, and Black Hills Nano's registered agent for service of process was located in Sioux Falls, South Dakota.

Although the principals interchanged the names of the entities for various projects, the work of these individuals and entities significantly overlapped. Chao also served as MicroAssembly's Chief Financial Officer and as a former Director. Kim worked as an engineer for MicroAssembly. While Kim served as Black Hills Nano's President, Tang served as its Director of Research and Development. While Chao served as Defendant Laserlith's President, Tang served as a company Officer and Kim served as its Corporate Secretary.

The National Science Foundation ("NSF"), the National Aeronautics and Space Administration ("NASA"), and the Department of Energy ("DOE") participated in the Small Business Innovation Research ("SBIR") Program and Small Business Transfer Technology Research ("STTR") Program through which Defendants sought and obtained federal funds. All SBIR and STTR proposals were required to be electronically submitted to the federal agency offering the [2]

grant or contract opportunity. NSF's, NASA's, and DOE's computer servers used to receive contract proposals were located in Virginia, Mississippi and Maryland, and Virginia, respectively. Federal SBIR and STTR grant and contract award payments were electronically transferred from the associated federal agency, through the United States Department of the Treasury, and then wired to a business bank account identified by the Defendants. Defendants also used wires to transmit interstate communications to and from South Dakota.

Beginning in approximately 2012, and continuing through 2016, within the State and District of South Dakota and elsewhere, Defendant Laserlith, at the direction and behest of its principal, Sine Chao, along with others both known and unknown to the Grand Jury and United States, did unlawfully, voluntarily, intentionally, and knowingly conspire, combine, confederate, and agree together and with each other to devise a scheme and artifice to defraud, and obtain money and property by means of false and fraudulent pretenses, representations, and promises, by sending and causing to be sent a sign, signal, and sound to be transmitted by means of wire communications in interstate and foreign commerce, in violation of 18 U.S.C. § 1349. The object of Defendants' conspiracy was to obtain federally-funded projects by and through material misrepresentations, statements, and omissions, thereby depriving the United States the ability to fund other small businesses and resulting in the enrichment of Defendants Laserlith, MicroAssembly, Blue Sky, and Black Hills Nano, and of individuals Wallace Tang, Sine Chao, and Gina Kim.

In furtherance of the conspiracy and to accomplish the object thereof, Defendant Laserlith and Sine Chao, individually and as duly authorized officer for Laserlith Corporation, did commit the following overt acts, as well as others, in the District of South Dakota and elsewhere, and at all times relevant to this case:

1. Defendant Laserlith and Sine Chao applied for and received federal awards. Defendant Laserlith and Sine Chao communicated with, transmitted proposals through, and received payments by electronic communications and wires. These electronic transmissions and wires were interstate.
2. Defendant Laserlith and Sine Chao applied for and received federal awards for essentially equivalent work, or portions thereof, concealing the existence of the awards and the relationships between related companies from the awarding agencies.
3. During the application process, Defendant Laserlith and Sine Chao misrepresented the existence and use of distinct company facilities, equipment, and operations in South Dakota and North Dakota, and elsewhere outside of California. These representations and statements were false in that all of the companies were co-located in a common facility in Richmond, California, sharing the same resources and performing essentially equivalent work, or portions thereof.
4. Between 2012 and 2016, Defendant Laserlith and Sine Chao submitted, or caused the submission of, wire transmissions of approximately four (4) false claims and six (6) materially false statements with knowledge of [4]

their falsity, solely to obtain federal awards. These false claims are specifically set forth in the chart on pages 7 through 8 of this Factual Basis Statement. "Knowledge" is defined as being (1) actual knowledge, (2) deliberate ignorance of the truth or falsity of the information, or (3) reckless disregard of the truth or falsity of the information. The term "material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

5. Defendant Laserlith's and Sine Chao's actions, false statements, and misrepresentations included the preparation and submission of proposals for awards under the NSF, NASA, and DOE programs, specifically involving costs, employees, the eligibility of principal investigators, suitability of facilities, location of facilities, subcontractors, consultants, letters of support, and certifications submitted to NSF, NASA, and DOE.

6. Defendant Laserlith's and Sine Chao's actions, false statements, and material misrepresentations resulted in the receipt of payments from the U.S. government. The fraudulently-obtained NSF, NASA, and DOE awards totaled \$1,086,487.77, joint and several between Defendant Laserlith, and corporate entities MicroAssembly, Blue Sky, and Black Hills Nano.

As a result of Defendant Laserlith's and Sine Chao's scheme and artifice to defraud and to obtain money and property by means of false, fictitious, and fraudulent pretenses, representations, and promises relating to material facts, Defendant Laserlith and Sine Chao knowingly presented or caused to be

presented false or fraudulent proposals via interstate wire transmissions and unlawfully obtained an award from a federal agency, as set forth below:

Awarding Agency & Year	Awarded Defendant & Amount	Nature of Project & Proposal Number
NSF 2014	Laserlith \$734,890.00	Micromachined components for wireless applications regarding proposal number 1431008
NSF 2012	Laserlith \$149,497.00	Micromachined Varactor for Antenna Impedance Matching regarding proposal number 1217624
NSF 2013	Laserlith \$179,479.00	RF Mems Relay for ATE Applications regarding proposal number 1143347

The above awards to Defendant Laserlith amounted to \$1,063,866.00. NSF award-number 1431008 was terminated when Defendant Laserlith's conduct was discovered. Upon terminating this award, NSF recovered \$551,168.00, thereby bringing the total loss to the United States of \$512,698.00. This amount represents Defendant Laserlith's portion of the total loss to the United States. Defendant Laserlith's actions were in violation of 18 U.S.C. § 1349.

At all times relevant to the above awards, Sine Chao, acting individually and as the duly authorized officer for Laserlith Corporation, submitted, or caused the submission of, wire transmissions specifically relating to the proposals with knowledge of materially false statements and representations in the proposals, solely to obtain federal awards for Defendant Laserlith and its related entities from NSF, NASA, or DOE. Furthermore, between 2012 and 2016 and at all times relevant to this case, Sine Chao, acting individually and as the duly authorized officer for Defendant Laserlith Corporation, submitted, or caused the submission

of, wire transmissions of three (3) false claims and four (4) materially false statements with knowledge of their falsity, solely to obtain federal awards for Defendant Laserlith and its related entities from NSF, NASA, or DOE, as follows:

Date	Amount	Claim	Description
1/16/2013	\$179,479	NSF Final Report Cover Page with SBIR/STTR Funding Agreement Certification for NSF Proposal 1143347 titled RF MEMS Relay for ATE Applications	False Statements made to place of performance, all funds expended as budgeted, and primary employment of PI
7/15/2013	\$149,497	NSF Final Report Cover Page with SBIR/STTR Funding Agreement Certification for NSF Proposal 1217624 titled Micromachined Varactor for Antenna Impedance Matching	False Statements made to place of performance, all funds expended as budgeted, and primary employment of PI
1/31/2014	\$734,890	NSF Proposal 1431008 titled Micromachined components for wireless applications	False information and statements provided regarding place of performance, primary employment, equipment and facilities.

Approximate Date	Document	Description
7/15/2013	NSF SBIR/STTR Final Report Cover Page for Micromachined Varactor for Antenna Impedance Matching	False statements provided regarding primary employment, and facilities.
1/30/2014	NSF Proposal 1431008 titled Micromachined components for wireless applications	False information and statements provided regarding place of performance, primary

		employment, equipment and facilities.
6/17/2014	NSF SBIR/STTR Administrative Questions for 1431008 titled Micromachined components for wireless applications	False statements made to tasks overlapping with other proposals, to the affiliated companies, and to the location of significant research.
4/30/2015	NSF SBIR/STTR Interim Report Cover Page for Micromachined components for wireless applications	False statements or information provided regarding primary employment and facilities.

RONALD A. PARSONS, JR.
United States Attorney

9/21/18
Date

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9/4/2018
Date

Sine Chao
Sine Chao, individually and as duly authorized officer for Laserlith Corporation Defendant

September 4, 2018
Date

Michael Li-Ming Wong
Michael Li-Ming Wong
Attorney for Defendant